

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF TAX APPEALS
FILE NO. K04-S-139**

JAMIE CORUM

APPELLANT

V.

ORDER NO. K-19465

HARLAN COUNTY PVA

APPELLEE

The Kentucky Board of Tax Appeals conducted a hearing in this matter on November 8, 2005 and makes the following findings of fact, conclusions of law and final disposition.

FINDINGS OF FACT

This assessment appeal is for real property located at Abner Branch, Harlan County, Kentucky. The Harlan County Property Valuation Administrator assessed the property at \$383,750.00. The taxpayer or Appellant values the property at \$150,000.00. The Harlan County Board of Assessment Appeals valued the property at \$ 383,750.00. The Appellants filed a timely appeal from the local board with the Kentucky Board of Tax Appeals.

The Appellant offered the following evidence in support of Appellant's appeal:

Mr. James Corum, representing Jamie Corum Claire, appeared as a witness for the Appellant and provided testimony in support of an assessment in the amount of \$150,000.00. Mr. Corum testified the farm had been in the Corum family for approximately 150 years which consist of 937 acres. Mr. Corum testified that approximately two (2) acres of the farm are relatively flat and suitable for row crop farming and the balance is steeply sloped and suited only for the production of trees. The Appellant has farmed the land for many years and within the last

30 years has completed Timber Stand Improvement on some 500 acres. TSI involves eliminating non-marketable trees, diseased trees and trees struck by lightning. Mr. Corum testified the assessed value of the tree farm should be \$12.00 per acre because the Appellee did not take into consideration the individual soil characteristics of the Corum Farm. Mr. Corum also testified that tree farming should be in a class of its own and not classified as agriculture.

Mr. Jerry K. Blanton, Harlan County PVA, was asked to testify regarding the assessment of the property in question. He stated that when there is more than 10 acres of farmland, the land can be assessed at agriculture value. With this appeal, consisting of 957 acres, the land was assessed at \$ 125.00 per acre. Mr. Blanton testified that the \$125.00 per acre had been assessed to Corum Farm since 1994 and all-similar type of land, such as reclaimed coal property is assessed at \$ 125.00 per acre. Mr. Blanton also testified the soil characteristics or soil samples of the Corum property are better than the reclaimed coal property. In his closing statement, Mr. Blanton testified he along with all Property Valuation Administrators in the Commonwealth of Kentucky follow the Assessment Guidelines prepared by the Kentucky Department of Revenue.

CONCLUSIONS OF LAW

The Kentucky Board of Tax Appeals is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of the Harlan Board of Assessment Appeals pursuant to KRS 131.340(1).

The function of the Board is not simply to review the action of the Harlan County Board of Assessment Appeals, but to try anew the issues as presented. *Jefferson County Property Valuation Administrator v. Oxford Properties, Inc.*, Ky.App., 726 S.W.2d 317, 319 (1987). See KRS 131.340(1).

Section 172 of the Kentucky Constitution mandates that “all property shall be assessed for taxation at its fair cash value, estimated at the price it would bring a fair voluntary sale.” Section 172A allows for the legislature to provide for the assessment of agricultural or horticultural land according to its value for agricultural or horticultural use.

As the party proposing that the Kentucky Board of Tax Appeals set aside the decision of the Harlan County Board of Assessment Appeals, the Appellants have the burden of proving a lower value. KRS 13B.090(7). This Appellant has failed to do. In fact, one of the Appellant’s witnesses put the timber value at over \$1,000,000.00.

It is the finding of this hearing that the Appellant did not sustain her burden of proof regarding her challenge to the final order of the Harlan County Board of Assessment Appeals.

FINAL ORDER

Based upon the facts as established in this hearing, the Board concludes that the fair cash value of the subject property as of January 1, 1004 is \$383,750.00.

This is a final and appealable order. All final orders of this agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency’s enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties

to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

DATE OF ORDER
AND MAILING: February 7, 2006

KENTUCKY BOARD OF TAX APPEALS
FULL BOARD CONCURRING

NANCY MITCHELL
CHAIR